

**BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO**

In the Matter of the Protest of	)	
	)	DOCKET NO. 17937/18587
[Redacted]	)	
Petitioner.	)	DECISION
	)	
	)	

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On December 14, 2004, the Income Tax Audit Bureau of the Idaho State Tax Commission issued a Notice of Deficiency Determination to [Redacted](Petitioner), asserting income tax and interest in the amount of \$28,943 for the 2000 through 2002 taxable years. The Notice advised the Petitioner that, if he disagreed with the deficiency determined by the Bureau, he could petition the Tax Commission for a redetermination.

On February 15, 2005, the Petitioner timely filed an appeal and petition for redetermination. An informal telephonic conference was scheduled for June 9, 2005. Petitioner did not call in for the informal conference at the designated time or place.

This decision is based on the information contained in the Tax Commission's files. For the reasons set forth below, the Tax Commission affirms the deficiency with interest updated through July 31, 2005.

**I.      FACTS**

The Petitioner is an Idaho resident and has not filed Idaho income tax returns for the 2000 through 2002 taxable years. Based on information obtained by the Tax Discovery Bureau of the Idaho State Tax Commission, it appeared that the Petitioner had an Idaho income tax filing requirement for the years in question. Information received from Federal Form 1099 shows the Petitioner received income of approximately \$87,604 during the 2000 taxable year, \$98,463 during the 2001 taxable year, and \$105,357 during the 2002 taxable year.

Based on the federal 1099 information, the Tax Discovery Bureau prepared provisional returns for the Petitioner. The Bureau provided the Petitioner with personal deductions and exemptions and grocery credits. Once completed, the provisional returns showed a tax deficiency existed for each of the years at issue. The Bureau then issued a Notice of Deficiency Determination which included a description of the information relied upon, a copy of the provisional returns, a document showing the calculation of interest, and an explanation of the Petitioner's right to request a redetermination of the deficiency.

The Petitioner sent a letter of protest in response to the Notice of Deficiency Determination demanding a face to face hearing. Petitioner objected to the Notice of Deficiency Determination on the grounds that 1) the Tax Commission has not identified the subject of the tax at issue, and 2) the Tax Commission has not proved that the Petitioner is a "taxpayer" within the meaning of the Internal Revenue Code (IRC) or the Idaho Code. An informal telephonic conference was scheduled on June 9, 2005. However, Petitioner never called to initiate the conference.

## **II. ANALYSIS**

The Petitioner puts forth two arguments as to why he should not be liable for Idaho income tax. First, the Petitioner argues that the Tax Commission has not identified the subject of the tax for which he is liable. Mr. [Redacted] is a resident of Idaho and is being taxed on his income. Idaho Code §63-3024 provides that a tax measured by taxable income as defined in Title 63, Chapter 30 of the Idaho Code is imposed on every individual required to file an Idaho return. Idaho Code § 63-3030 requires any Idaho resident with gross income greater than the federal exemption amount to file an Idaho individual income tax return. *See also* I.R.C. § 6012(a)(1)(A). Mr. [Redacted] had income in excess of the threshold limits for 2000, 2001, and 2002 and thus, Mr. [Redacted] was required to file individual income tax returns for the years in

question.

Next, Petitioner argues that he is not a taxpayer subject to Idaho income taxation. However, Petitioner is a resident of the state of Idaho who has gross income in excess of the minimum filing amounts for the years in question. Therefore, Petitioner is required under Idaho's income tax laws to report and pay taxes on his income. Idaho Code §§ 63-3024 and 63-3030(a)(1). In addition, the fact that the Petitioner is a resident of Idaho is sufficient to confer jurisdiction over him for purposes of Idaho individual income taxation. Domicile itself affords a basis for income taxation. *New York ex rel Cohn v. Graves*, 300 U.S. 308, 312-13 (1937). Enjoyment of the privileges of residency in the state and the attendant right to invoke the protections of its laws are inseparable from responsibility for sharing the costs of government. *Id.* at 313.

The Petitioner has provided no information to rebut the presumption that the provisional returns prepared by the Tax Commission are correct. *Parsons v. Idaho State Tax Comm'n*, 110 Idaho 572, 574 n.2 (Ct. App. 1986). Therefore, based on the information available, the Tax Commission finds the provisional returns to be a fair representation of the Petitioner's taxable income for 2000, 2001 and 2002.

### **III. DECISION**

WHEREFORE, the Notice of Deficiency Determination dated December 14, 2004, is hereby APPROVED, AFFIRMED, and MADE FINAL.

IT IS ORDERED and THIS DOES ORDER that the Petitioner pay the following taxes, penalty, and interest.

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
2000	\$6,250	\$1,563	\$1,699	\$ 9,512
2001	\$6,822	\$1,706	\$1,328	\$ 9,856
2002	\$7,333	\$1,833	\$ 957	\$10,123
			TOTAL DUE	<u>\$29,491</u>

Interest is calculated through July 31, 2005, and will continue to accrue until paid.

DEMAND for immediate payment of the foregoing amount is hereby made and given.

An explanation of the Petitioner's right to appeal this decision is enclosed with this decision.

DATED this \_\_\_\_ day of \_\_\_\_\_, 2005.

IDAHO STATE TAX COMMISSION

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COMMISSIONER

### **CERTIFICATE OF SERVICE**

I hereby certify that on this \_\_\_\_ day of \_\_\_\_\_, 2005, a copy of the within and foregoing DECISION was served by sending the same by United States mail, postage prepaid, in an envelope addressed to:

[Redacted]

Receipt No.